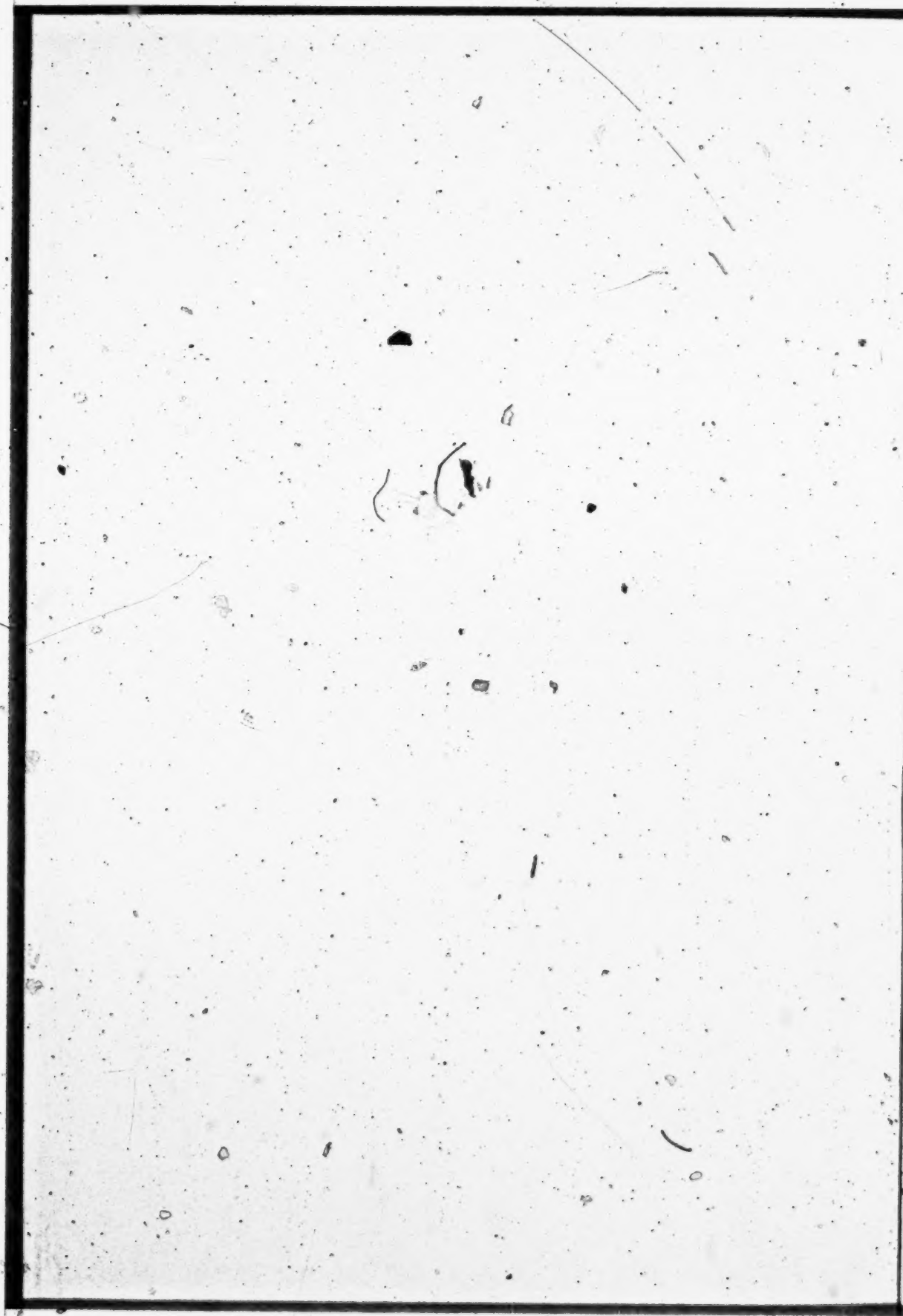

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No. 1178.

IN THE

Supreme Court of the United States

October Term, 1967.

EDWARD FRANZEN,

Petitioner,

v.

THE TOWNSHIP OF ELK, a municipal corporation of the State of New Jersey;

THE TOWNSHIP OF UPPER PITTSGROVE, a municipal corporation of the State of New Jersey;

PHILIP FRANZEN, EMIL W. GALLAGHER and NAOMI A. GALLAGHER, his wife; and JOHN FRANZEN.

Petition for Rehearing

JOSEPH PIERCE LODGE,
Apartment 11-P,
Northgate Apartments,
Camden, New Jersey 08102.
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Attorneys for the Petitioner.

Huntzinger Printing Corp., *Appellate Printers*, Camden, N. J.

PETITION.

Rehearing is prayed in this case on the ground of the possibilities of violence which might be involved.

In the past five years, three great men personally involved in the welfare of the citizens of this country, President Kennedy, Dr. King, and now Senator Kennedy, have been assassinated as a result of violence. So serious is the problem that the President has appointed a Committee of distinguished men to examine the problem of violence.

Violence can never be condoned. Violence can be understood in a very few and exceptional instances. We can understand the violence of a husband whose wife or children are being injured in some way. Then again, as in the case of the resistance to a claim-jumper, where a man has worked all his life and has, by his industry, acquired a little property to enjoy in his advancing years and when that property has been taken from him without any notice, that man has the right to look to the judicial branch of the Government and, if the Courts afford him no remedy, the possibility of violence exists.

The extent of the anguish caused by the conspiracy of the father and the brother and the taking of the property without notice, in the present case, may be gathered from the following testimony of the plaintiff in the trial court when he was examined as to the first indication he had that he did not own the farm any more:

"Q. What happened in 1955 that brought it to your attention?

"A. Phillip came out with a bunch of tractors and said he owned the ground and I said, 'Where is your deed, and where is your surveyor's stakes?' He didn't have either, so I chased him off. Then I was put in jail.

"Q. He came, you say, with tractors?

"A. Tractors. I think three tractors.

"Q. Did you ask him to leave?

"A. Well, I asked him what he was doing there and he (61) said he was going to farm the ground. He drove over my private land to get to that ground.

"Q. You mean your other land?

"A. Right.

"Q. You own a farm which joins the Mozenter tract?

"A. Right.

"Q. You still own it?

"A. Still own it.

"Q. You called him on that?

"A. Right.

"Q. Now, you say you were put in jail?

"A. Right, because I went and got a gun.

"Q. You got a gun for what purpose?

"A. I told him if he didn't get off I would shoot holes in the tires and pull them off. My equipment was bigger than theirs" (P110a-21 to P111a-16).

On these grounds and in accord with the efforts of our President to determine the causes of violence in the hope that violence may be curbed, we respectfully submit that the petitioner, Edward Franzen, should not be driven to violence and that his cause, based on the deprivation of his

property without the notice required by law, should be examined by this Court.

Respectfully submitted,

JOSEPH PIERCE LODGE,
HENRY D. O'CONNOR,
Attorneys for the Petitioner.

CERTIFICATION.

We do hereby certify that this Petition is presented in good faith and not for delay and that the Petition is restricted to the grounds above specified.

JOSEPH PIERCE LODGE,
HENRY D. O'CONNOR,
Attorneys for the Petitioner.